1941

File No. Tenancy III/41

K

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

Rules and Notifications under the Bombay Tenancy Act 1939

File No. Tenancy II/41

Std. Sectt. Slip 24 B e.

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	R. I. No. 10071 20/10/41. O. No. 10660 11/12/41.	Under Sec. 18(3) of the Bombay Tenancy Act, the tenant is not liable to pay any stamp duty on such certificate.	7-9.

Madhav Raokadam.

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Office of the R. L. A.

The draft notification at pge 184 ante appointing the awalkarkuns and extra awalkarkuns to perform the duties of a Malatdar proposed to be issued under section 2(5) of the Bombay Tenancy, Act, 1939, and the draft notification at pges 211-219 ante making rules under section 27 of the Act do not require any modification. The notification will operate in those areas only to and inwhich the provisions of the Act including those under which the notifications are issued are extended and brought into force. The notifications will not apply to areas to which the provisions of the Act are not extended.

2. As regards the draft notification at page 185 ante prop ... to be issued under section 1(3) the notification will require modification. A revised draft of the notification is appended. As it is intendedto extend the Act only to the districts of Surat, Thana West Khandesh and Dharwar and the partially excluded areas in the Province of Bombay, it is not necessary to extend the provisions of section 31 of the Tenancy Act to those districts and areas, as the Khoti Settlement Act, 1880, which has been amended by the Tenancy Act, does not apply to the said districts and areas. Before, however this notifications is issued it will be necessary to issue a notification ~~in issued~~ applying the Bombay Tenancy(Amendment) Act, 1941, to the partially excluded areasinthe Province. A draft notification for this purpose is also appended.

sd/-15/3

Remembrancer of Legal Affairs.

U. R. to R. D. No. 2358, dated the 17th March 1941.

MAdhav Raokadam.

NOTIFICATION.

Revenue Department.

Bombay Castle, March, 1941.

No. The Government of Bombay is Pleased -

(1) in exercise of the powers conferred by sub-section(2) of section 1 of the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939) to extend the provisions of sections 2 to 30 of thesaid Act to the districts of ..... and to the partially excluded areas inthe Province of Bombay; and

(2) to direct undersub-section (3) of thesaid section 1 that the said provisions shall come into force in the said districts and inthe said areas on ....

By order of the Governor of Bombay,

Secretary to Government.

Madhav Raokadam.

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NOTIFICATION.

Revenue Department.

Bombay Castle, March, 1941.

No. In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act 1935, the Governor of Bombay is hereby pleased to direct that all the provisions of the Bombay Tenancy(Amendment) Act, 1941 (Bom. of 1941), shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

Madnav Raokadam.

Office of the R. L. A.

In para. 1 of his note dated 6th October, 1941 at pages 38-39 ante, the Secretary, Revenue Department, states that the fee charged to the tenat under the Schedule to rule 7 ~~of~~ of the Bombay Tenancy Rules is equivalent to stamp duty and that it should be made quite plain that the Registration fee is not to be charged over again. In para. 2 of the note he further states that he does not see why the Government should make a present of the Registration fee to the tenant and that it is quite equitable to levy it in some form or other. The two statements made in paras. 1 and 2 in so far as they relate to the charging of the Registration fee to thetenant appear to conflict with each other and the intention of Government is not quite clear from the note of the Secretary, Revenue Department Perhaps, the intention is that the tenant should be charged only thefees specified in the Schedule to the Bombay Tenancy Rules and that he should not be liable to pay any further fees as stamp duty or Registration fees in respect of the certificate granted to him under section 18(3) of the Bombay Tenancy Act. If this be the intention, it cannot be carried out by an amendment of rule 7 of the Bombay Tenancy Rules. Under section 18(3) of the Bombay Tenancy Act the tenant has to pay the fees specified in the Schedule to the Bombay Tenancy Rules before the certificate is granted to him. As pointed out in para 3 of R. L. A's opinion No. 4498 dated 8th May 1940, no stamp duty is leviable under the Indian Stamp Act, 1899 on a certificate granted under section 18(3) of the Bombay Tenancy Act. The tenant therefore, is not liable to pay any stamp duty under this Act on such certificate As regards the Registration fees however, for reasons stated in para 1 of the R. L. A.'s opinion at pages 23.25 ante, such certificates if the value of the right, title or interest to which they relate is Rs. 100/- or more, are compulsorily registrable under section 17 (1) (b) of the Indian Registration Act and consequently the tenant is laible to pay the registration fee in respect of them under sectio 80 oft

80 of that Act. The fees are prescribed under section 8 of the the Registration Act and if it is the intention f Government to exempt certificates issued under section 8(3-) of the Tenancy Act from registration fees, it may e stated in the table of fees prepared under section 78 hat no registration fees shall be payable in respect of uch certificates.

sd/-
9/12

Remembrancer of Legal Affairs.

U. R. To R. D. No. 10660, dated the 11th December, 1941.

Madhav Raokadam,
14/4/56.